

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ARMSTER BRUNER, JR.)	
)	
COMPLAINANT)	
)	
VS.)	CASE NO. 93-406
)	
LEXINGTON-SOUTH ELKHORN WATER DISTRICT)	
)	
DEFENDANT)	

O R D E R

On November 2, 1993, Armster Bruner, Jr. filed a complaint against Lexington-South Elkhorn Water District ("LSEWD"). Mr. Bruner alleged that on September 2, 1993 he requested three additional meters on one of LSEWD's existing water lines in the Murphy Lane area of Nicholasville, Kentucky. Mr. Bruner needed approval of these meters before he could obtain planning and zoning approval for a subdivision. LSEWD required Mr. Bruner to perform a hydraulic analysis of the effect the new meters would have on the existing system. LSEWD also stated it would approve the meter installation only if the hydraulic analysis were satisfactory.

Mr. Bruner alleges that LSEWD is treating him in a discriminatory manner because it does not require other applicants who request fewer than ten new meters to provide hydraulic analyses. Additionally, he states that, since he made his request, approximately 20 new meters have been added to the same line and no analyses have been required.

Mr. Bruner seeks a Commission order requiring LSEWD to allow the three new meters and to sign his plat confirming that water service is available to the subdivision.

On November 22, 1993, the defendant, LSEWD, answered Mr. Bruner's complaint. LSEWD admitted that the "normal operational procedure of the Defendant is not to require any hydraulic studies when plats submitted to them for the signing of the certification of the availability of water services propose less than 10 new services." [Answer, p. 2]. LSEWD justified its actions by stating,

"that Complainant was afforded due process and [LSEWD] had good and sufficient reasons to deviate from its normal procedures and to require Complainant to submit hydraulic studies prior to considering his request for the District Chairman's signature on the Certificate of Availability of Water on the preliminary plat to be submitted to the Jessamine County-City of Wilmore Joint Planning Commission, to wit: complaints from other District customers along the land adjacent to the subject property concerning line sizes and pressure problems, and concerns regarding availability of water and sufficient pressure to an existing fire hydrant in the event of a fire emergency if the new services are approved."

[Answer, p. 5].

An informal conference was held among the parties and Commission Staff on February 10, 1994. At that conference, LSEWD asserted that the hydraulic analysis is needed due to concerns about the cumulative effect of small subdivision demands on the system, that it is not discriminating against Mr. Bruner, and that the Commission lacks jurisdiction to require water districts to execute a certificate of water availability on the plat map. The Commission finds that it is irrelevant whether it lacks jurisdiction to require LSEWD to execute a certificate of water availability since it clearly possesses the requisite jurisdiction to order LSEWD to provide water service to Mr. Bruner.

After the informal conference, LSEWD was directed by Order dated February 24, 1994, to perform the hydraulic analysis regarding the proposed meters.

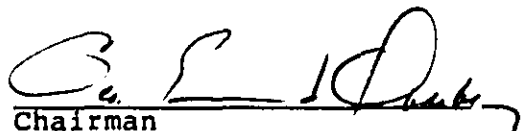
On May 20, 1994, LSEWD provided the Commission with the results of its hydraulic analysis and pressure survey. From the information and hydraulic analysis submitted by LSEWD's engineers, Horne Engineering, Inc., it appears that the requested three meter connections will have no significant impact on the system's pressure. While peak customer demand could cause low pressure in certain parts of LSEWD's distribution system, no evidence was presented to demonstrate that the requested connections would affect the service to LSEWD's existing customers.

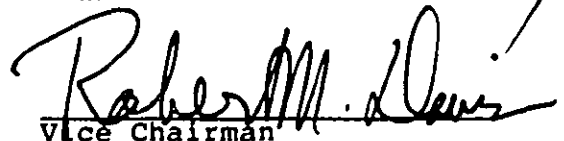
Therefore, the Commission finds that LSEWD should provide the requested three meter utility service to Mr. Bruner.

IT IS THEREFORE ORDERED that LSEWD approve Armster Bruner, Jr.'s application for three new meters and provide this service to Mr. Bruner within 20 days from the date of this Order.


Done at Frankfort, Kentucky, this 19th day of August, 1994.


PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman

ATTEST:


Executive Director


Commissioner